

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

DAVID LAUER, #1069082

§

VS.

§

CIVIL ACTION NO. 5:02cv243

DIRECTOR, TDCJ-CID, ET AL.

§

ORDER OF DISMISSAL

Plaintiff David Lauer, an inmate previously confined at the Telford Unit of the Texas prison system, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The complaint was referred to United States Magistrate Judge Caroline M. Craven, who issued a Report and Recommendation concluding that the complaint should be dismissed. The Plaintiff has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Plaintiff are without merit.

The Plaintiff has a history of abuse of court. On August 16, 2001, the Western District of Texas entered an order barring the Plaintiff from filing any new lawsuits without first obtaining leave of court. *Lauer v. Frasier*, No. A-01-CV-506-SS (W.D. Tex. Aug. 16, 2001). The Northern District subsequently dismissed a lawsuit by him in accordance with the sanctions imposed by the Western District. *Lauer v. Treon*, No. 7:03-CV-140-R (N.D. Tex. July 31, 2003). The Fifth Circuit affirmed the decision. *Lauer v. Treon*, 82 Fed. Appx. 948 (5th Cir. 2003). The Fifth Circuit dismissed the appeal as frivolous and issued a sanction warning. Like the Northern District of Texas, this Court

has a general order specifying that it will honor sanctions imposed by another federal court in Texas. General Order No. 94-6. The practice of honoring sanctions imposed by another district in Texas has been upheld by the Fifth Circuit. *Balawajder v. Scott*, 160 F.3d 1066, 1067-68 (5th Cir. 1999). The Plaintiff filed the present lawsuit on October 30, 2002. He filed the lawsuit without notifying the Court about the sanctions imposed by the Western District and without asking for leave of court while citing the sanctions. Magistrate Judge Craven issued the Report and Recommendation to dismiss the case when the Court first became aware of the sanctions. The Plaintiff's argument in his objections that the sanctions should not be upheld lack merit. He may not avoid sanctions by surreptitiously filing a lawsuit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the complaint is **DISMISSED** with prejudice pursuant to the Western District's order barring the Plaintiff from filing new lawsuits without leave of court. It is further

ORDERED that all motions not previously ruled on are **DENIED**.

SIGNED this 17th day of May, 2005.

A handwritten signature in black ink, appearing to read "David Folsom", written over a horizontal line.

DAVID FOLSOM
UNITED STATES DISTRICT JUDGE